IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

Crl.MC.No. 3966 of 2006()

CC.60/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-III, PALAKKAD

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PETITIONER:

M.T. JOSEPH, MYALIL HOUSE,
KANJIRAPUZHA P.O., MANNARKKAD.

BY ADV. SMT.DAISY THAMPI

RESPONDENTS:

THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3966 OF 2006

Dated this the 5th day of December, 2006.

ORDER

The petitioner is the 11th accused in a prosecution inter alia under Sections 283 & 188 read with 149 I.P.C. He is aged 63 years. According to him, he was always available at his house and was never absconding. The petitioner was never informed that a case has been registered against him and his presence is required before the learned Magistrate. The petitioner has now come to realise that a proclamation has been issued by the learned Magistrate to secure his presence. The petitioner has rushed to this Court with this Crl.M.C apprehending that if he surrenders before the learned Magistrate, his application for bail may not be considered favourably, on merits and expeditiously. He apprehends that earlier processes issued by court must have been returned with false endorsements resulting in the unenviable predicament which he is now forced to face.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the above circumstances which he is now urging before this Court. I have no reason to assume that the learned Magistrate would not consider these submissions on merits, in accordance with law

and expeditiously. Every court must do the same. Endorsement made by the police cannot ip so facto lead the court to a ready and instant conclusion that the petitioner has been absconding. All circumstances have to be considered by the learned Magistrate. Appropriate orders must be passed on merits and expeditiously. No special or specific directions appear to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

3. In the result, this Crl.M.C is dismissed. But with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner today itself.

(**R.BASANT, JUDGE)**

rtr/